

HIST 426: Disability and U.S. Law

Mondays, 1:30-4:10pm

Professor Elizabeth Petrick

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Office: Humanities 324 (or Zoom)

Office Hours: By Appointment – in person (outside on campus) or over Zoom

Course Description:

This course looks at the history of civil rights for people with disabilities in the United States, from the nineteenth century to today. We will primarily look through the lens of legal history, and with elements of social history, cultural history, and the history of medicine. We will ask why fighting for anti-discrimination legislation was so difficult, what were the challenges to gaining such protections and enforcing them, how the disability rights movement developed, and what legal and social concerns face people with disabilities today. Our goal is to understand the place of people with disabilities in our society and their struggle to secure equity and access to fulfilling social lives.

Objectives:

By the end of this course students will:

- Be able to explain the history of civil rights for people with disabilities
- Be able to analyze social perceptions toward people with disabilities
- Improve their ability to analyze visual and textual arguments
- Be able to effectively use primary and secondary sources in historical writing
- Propose an historical research project, using primary and secondary sources, culminating in an original piece of historical writing
- Improve their ability to conduct in-class presentations to their fellow students

COVID Accommodations:

Most classes will be conducted synchronously over Zoom. Lecture recordings will be made available on Canvas. Attendance will be taken. Please be no more than 5 minutes late for class or you may miss necessary material. Participation in class discussions and on the Canvas discussion board are expected. If you are attending class over Zoom, please keep your camera on, if possible. We will begin completely online but may switch to a hybrid format if it becomes safe to do so.

The short essay will be graded pass/fail. 0 = not submitted; 50% = unsatisfactory; 100% = satisfactory.

Both the reading presentation and project presentation may be recorded in advance.

Required Readings:

You must choose one comprehensive history of disability in the U.S. as a course textbook (I'll bring all of them to the first class for students to look at):

Primary Options:

Doris Zames Fleischer and Frieda Zames. *The Disability Rights Movement: From Charity to Confrontation*. 2nd Edition (Philadelphia: Temple University Press, 2011).

[Good look at legal issues, more focused on the East Coast. Ebook through the library.]

Joseph P. Shapiro. *No Pity: People with Disabilities Forging a New Civil Rights Movement*. (New York: Times Books, 1993).

[Popular history, focus on institutionalization. Can rent ebook through the library.]

Other Options:

Paul K. Longmore and Lauri Umansky, eds., *The New Disability History: American Perspectives* (NYU Press, 2001).

[Collection of essays/case studies, focus on blind and deaf people, more early history.]

Kim E. Nielsen, *A Disability History of the United States* (Boston: Beacon Press, 2013).

[Comprehensive early history. Ebook through the library.]

All other readings will be on Canvas. Readings should be completed before coming to class.

Course Requirements:

[20%] Participation

This course is a small seminar, in which you are expected to participate in class discussions and in-class assignments.

Attendance at all classes is required. There will be a grade deduction after more than 3 absences, unless officially excused due to athletics or family/medical emergency.

Persistent tardiness (more than 15 minutes late) will result in a grade deduction.

[15%] Short Essay

3 pages. This essay involves analyzing your own relationship to or interest in disability and law. Due Week 4, in class.

[5%] Reading Presentation

You will choose one of the assigned legal documents to summarize and present your views on in class. Students will sign-up for readings during Week 1.

[60%] Research Paper Project

The main project for this class will involve you developing a historical research question, researching an answer to the question, and writing a paper describing your findings. You will utilize whichever course book you chose to contextualize the topic you research. There are 4 components to the project:

[5%] Proposal

- Ungraded. Due during Week 9. Will be shared and discussed with the class.
- [5%] Rough Draft
Ungraded. Due during Week 13. Will be used for peer review.
- [10%] Presentation
You will conduct a presentation before the class on your research project during Week 14.
- [40%] Final Paper
20 page minimum. Due the last day of final exam week.

Late Paper Submissions: Papers will lose one grade for every day late (A to A-, A- to B+). Papers will not be accepted more than 1 week late. Late final papers are not accepted.

Paper Formatting: All papers must be typed, double-spaced, 12 pt standard font (Times, Helvetica, Arial, etc), 1" margins. Acceptable digital file types: .doc or .docx

Grading Scale:

97-100	A+
93-96	A
90-92	A-
87-89	B+
83-86	B
80-82	B-
77-79	C+
73-76	C
70-72	C-
67-69	D+
60-66	D
0-59	F

Academic Integrity:

All students are expected to follow the Rice Honor Code. Plagiarism will not be tolerated. All cases of suspected plagiarism/cheating will be reported for investigation. If you have any questions about plagiarism, come speak with me. Students are encouraged to talk with each other about their assignments and read each other's drafts; however, the final product must be your own writing, with all words and ideas taken from others properly cited.

Laptops and other technology rules:

Students may use laptops, tablets, cell phones, or other technology in this course for class-related activities only. Texting, using Twitter, playing games, etc. interrupts the flow of discussion, distracts other students, and will inevitably embarrass you when I have to call you out. Students are prohibited from using headphones. You are in this class approximately 3 hours a week. Please be present and prepared when you are here. If you would rather text or surf the internet, please do not come to class.

Students with Disabilities or Special Needs:

Students who have disabilities or special needs should contact Disability Support Services to

help procure accommodations in completing coursework. Speak with me about how the course can best fit your needs.

Title IX Responsible Employee Notification

Rice encourages any student who has experienced an incident of harassment, pregnancy discrimination or gender discrimination or relationship, sexual, or other forms interpersonal violence to seek support from The SAFE Office. At Rice University, unlawful discrimination in any form, including sexual misconduct, is prohibited under Rice Policy on Harassment and Sexual Harassment (Policy 830) and the Student Code of Conduct. As the instructor and a responsible employee, I am required by Title IX to disclose all incidents of non-consensual interpersonal behaviors to the Title IX Coordinator on campus. Although responsible employees are required to make this notification, it is the student's choice to pursue a formal complaint. The goal is to make sure that students are aware of the range of options available and have access to the resources when in need. For more information, please visit safe.rice.edu, titleix.rice.edu, or email titleixsupport@rice.edu.

Class Schedule:

Week 1: Introduction (1/25)

Shapiro, introduction (3-11)
Fleischer and Zames, prefaces (xiii-xxi)

[Please take a look at the Davis and Goffman articles before the first class, if you can]

- Lennard J. Davis. "Constructing Normalcy: The Bell Curve, the Novel, and the Invention of the Disabled Body in the Nineteenth Century," in Lennard J. Davis, ed. *The Disability Studies Reader, 2nd Edition* (New York: Routledge, 2006), 3-16.
- Erving Goffman. *Stigma: Notes on the Management of Spoiled Identity*. New York: J. Aronson, 1974, Ch. 1: Stigma and Social Identity, 1-40,
https://onesearch.library.rice.edu/permalink/01RICE_INST/1hp1nr6/cdi_alexanderstreetmarcxml_SocialTheorySecondEditionASPS010023894_sth2.
- *Optional*: "Beethoven's Deafness: For Better or Worse – Or Neither?"
<https://www.wqxr.org/story/172678-beethovens-deafness-better-or-worse-or-neither/>

Week 2: Pre-Civil Rights (2/1)

Shapiro, chapter 5 (142-183)
Fleischer and Zames, chapter 1 (1-13)

- Buck v. Bell, 274 U.S. 200 (1927),
<https://www.law.cornell.edu/supremecourt/text/274/200> .
- Walter Berns. "Buck v. Bell: Due Process of Law?" *The Western Political Quarterly* 6 no. 4 (Dec. 1953): 762-775.
- Allison C. Carey, "Beyond the Medical Model: A Reconsideration of 'Feeble-mindedness', Citizenship, and Eugenic Restrictions," *Disability & Society* 18, no. 4 (2003): 411-430,

https://onesearch.library.rice.edu/permalink/01RICE_INST/1hp1nr6/cdi_crossref_primary_10_1080_0968759032000080977.

Week 3: A Growing Population (2/8)

Shapiro, chapter 1 (12-40)

Fleischer and Zames, chapter 3 (33-48)

- *The Best Years of Our Lives* (1946) [Finish watching on your own]
- David A. Gerber. "Heroes and Misfits: The Troubled Social Reintegration of Disabled Veterans in 'The Best Years of Our Lives,'" *American Quarterly* 46 no. 4 (Dec. 1994): 545-574,
https://onesearch.library.rice.edu/permalink/01RICE_INST/1hp1nr6/cdi_gale_infotracademiconefile_A16569851.
- Sarah F. Rose, *No Right to Be Idle: The Invention of Disability, 1840s–1930s* (The University of North Carolina Press, 2017), Ch. 5, 137-171.

Week 4: Protecting Civil Rights (2/15)

Shapiro, chapter 2 (41-73)

Fleischer and Zames, chapter 4 (49-70)

- Tom Shakespeare. "The Social Model of Disability," in Lennard J. Davis, ed. *The Disability Studies Reader*, 2nd Edition (New York: Routledge, 2006), 197-204.
- The Architectural Barriers Act of 1968, <https://www.access-board.gov/the-board/laws/architectural-barriers-act-aba>
- Richard K. Scotch. *From Good Will to Civil Rights: Transforming Federal Disability Policy*. (Philadelphia, PA: Temple University Press, 1984), chapter 3-4, pgs 41-81.

Short Essay Due

Week 5: Education (2/22)

Shapiro, chapter 6 (184-210)

Fleischer and Zames, chapters 5 and 11 (71-87 and 184-199)

- *Southeastern Community College v. Davis*. 442 US 397 (1979),
https://scholar.google.com/scholar_case?case=15117215513508737370&hl=en&as_sdt=6&as_vis=1&oi=scholar
- *Bowen v. American Hosp. Ass'n*, 476 U.S. 610 (1986),
<https://www.law.cornell.edu/supremecourt/text/476/610> [Long, skim it to get a sense of it]
- Claire H. Liachowitz. *Disability as a Social Construct: Legislative Roots* (Philadelphia: University of Pennsylvania Press, 1988), Ch. 5, 86-106.
- Mitchell L. Yell, David Rogers and Elisabeth Lodge Rogers. "The Legal History of Special Education: What a Long, Strange Trip It's Been!" *Remedial and Special Education* 19: 219-228.

Week 6: NO CLASS

Week 7: Disability Rights Gains Attention / Project Workshop (3/8)

Shapiro, chapter 3 (74-104)

Fleischer and Zames, chapter 2 (14-32)

- Deaf President Now historical materials [This is a large collection, skim through it]

Week 8: The American with Disabilities Act (3/15)

Shapiro, chapter 4 (105-141)

Fleischer and Zames, chapter 6 (88-109)

- Frank G. Bowe. "An Overview Paper on Civil Rights Issues of Handicapped Americans: Public Policy Implications," in *Civil Rights Issues of Handicapped Americans: Public Policy Implications*, United States Commission on Civil Rights, May 13-14, 1980, 7-18.
- Americans with Disabilities Act of 1988, Senate Hearing 100-926, (Sept 27, 1988), 58-92 only [Testimony from disability rights representatives]
- The American with Disabilities Act of 1990, <https://www.eeoc.gov/americans-disabilities-act-1990-original-text> [Get a sense of who and what is and is not covered]

Week 9: Impact of the ADA (3/22)

Shapiro, chapter 7 (211-236)

Fleischer and Zames, chapter 9 (149-169)

- Brian Doherty. "Unreasonable Accommodation: The Case against the Americans with Disabilities Act," Reason. Aug/Sept 1995, <https://reason.com/archives/1995/08/01/unreasonable-accommodation>
- Nancy Lee Jones. The Americans with Disabilities Act (ADA): Statutory Language and Recent Issues. Congressional Research Service Report, 2001.
- The ADA Amendments Act of 2008, <https://www.eeoc.gov/statutes/ada-amendments-act-2008>

Research Project Proposals Due in Class

Week 10: Fitting into Society (3/29)

Shapiro, chapter 9 (258-288)

Fleischer and Zames, chapter 7 (110-131)

- Miriam Ascarelli. *Independent Vision: Dorothy Eustis and the Story of the Seeing Eye*. (West Lafayette, IN: Purdue University Press, 2010), Chapter 13, pgs 93-98.
- Dorothy Deming. "Fearless Eyes," *The American Journal of Nursing* 44, no. 8 (Aug., 1944): 765-768.
- Jim Thatcher. Expert Declaration of Dr. James W. Thatcher in Support of Plaintiffs' Motion for Preliminary Injunction. *National Federation of the Blind v. Target Corporation*, 2006.
- Lainey Feingold. *Structured Negotiation: A Winning Alternative to Lawsuits*. (Chicago: American Bar Association, 2016), 1-14.

Week 11: One-on-One Project Meetings

No class. Schedule an appointment to discuss your project with me.

Week 12: Disability and Law Issues Today (4/12)

Shapiro, epilogue and postscript (322-339)

Fleischer and Zames, chapter 13 (216-255)

- Daniel Engber. "The Strange Case of Anna Stubblefield," The New York Times Magazine, Oct. 20, 2015, http://www.nytimes.com/2015/10/25/magazine/the-strange-case-of-anna-stubblefield.html?smid=tw-share&_r=0
- Robert Perske. "The Dignity of Risk and The Mentally Retarded," *Mental Retardation* 10, no. 1, February, 1972.
- Harriet McBryde Johnson. "Unspeakable Conversations," The New York Times Magazine, Feb. 16, 2003, <http://www.nytimes.com/2003/02/16/magazine/unspeakable-conversations.html?sec=health&pagewanted=all>
- Jacqueline Vaughn Switzer, *Disabled Rights: American Disability Policy and the Fight for Equality* (Washington DC: Georgetown University Press, 2003), Ch 7, 144-172.

Week 13: Project Workshop (4/19)

Rough Draft Due in Class

Week 14: Student Presentations (4/26)

Final Paper Due []